

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

J.R., a minor, by and through her guardian ad litem, Janelle McCammack; M.B., a minor, by and through her guardian ad litem, F.B.; I.G., a minor, by and through his guardian ad litem, M.E., on behalf of themselves and all those similarly situated,

## Plaintiffs.

V.

OXNARD SCHOOL DISTRICT; CESAR MORALES, Superintendent of Oxnard School District, in his official capacity; ERNEST MORRISON, President of the Board of Trustees, in his official capacity; DEBRA CORDES, Clerk of the Board of Trustees, in her official capacity; DENIS O'LEARY, Trustee of the Board of Trustees, in his official capacity; VERONICA ROBLES-SOLIS, Trustee of the Board of Trustees, in her official capacity; MONICA MADRIGAL LOPEZ, Trustee of the Board of Trustees, in her official capacity; and DOES 1 TO 10, inclusive

### Defendant

Case No.: 2:17-cv-04304-JAK-FFM

**ORDER RULING DEFENDANTS'  
OBJECTIONS TO EVIDENCE AND  
DECLARATIONS SUBMITTED IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS'  
SECOND RENEWED MOTION  
FOR CLASS CERTIFICATION  
(DKT. [252]-1)**

1 The Court, having considered the evidence and Defendants' Objections to  
 2 Evidence and Declarations Submitted in Support of Defendant's Opposition to  
 3 Plaintiffs' Second Renewed Motion for Class Certification, hereby rules as  
 4 indicated below:

5 **A. Declaration/Testimony of Tania Lopez (T.L.) Regarding Her Son A.E.**

Declaration/Testimony of Tania Lopez (T.L.)	Objection	Ruling
<p>I, T.L., declare as follows:    I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</p> <p>1. I am the mother of A.E., who is twelve years old. He is currently in the seventh grade.</p> <p>2. I live with A.E. in Oxnard, California, within the boundaries of the Oxnard School District.</p> <p>3. <b>[Objection 1: My son attended Rio School District, which is also in Oxnard, for about three years, until about December of 2017. I saw that he struggled in school at Rio, and I got calls from his teachers. 1: 9-11.]</b></p> <p>4. From about January of 2018 until about December of 2018, A.E. lived in Mexico with his grandparents.</p> <p>5. A.E. returned to the United States in January of 2018 and I enrolled him at Haydoc Academy in Oxnard School District. I received calls from all of his teachers about his first</p>	<p>1. The District objects to this testimony because it is a hearsay statement being introduced to prove the contents of the student records without introducing the original document into evidence. Fed. R. Evid. 801, 1002. The District also objects to this testimony because the fact that "he struggled in school at Rio and I got calls from his teachers" is not attributable to the District and is irrelevant. Fed. R. Evid. 401, 402.</p> <p>2. The testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. Fed. R. Evid. 801,</p>	<p>1. Overruled</p> <p>2. Overruled</p>

Declaration/Testimony of Tania Lopez (T.L)	Objection	Ruling
progress report. [Objection 2: His teachers told me that A.E. was doing very poorly, and that he was getting bad grades. 1:14-17.]	802.	
6. [Objection 3: One of A.E.'s teachers told me that I should request special education assessment for A.E., but she asked that I not mention that she had made the suggestion. 1:18-19.]	3. The testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. Fed. R. Evid. 801, 802.	3. Overruled
7. Around February 14 or 15, 2019 I told the assistant principal at the school that I wanted my son to get an evaluation. [Objection 4: The assistant principal said to wait until after the holiday weekend. 1:21-22]	4. The testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. Fed. R. Evid. 801, 802.	4. Overruled
8. I did not hear anything more, so [Objection 5: I wrote down that I wanted a special education evaluation for my son and gave it to the school on February 22, 2019. 1:24]		
9. After I gave the school that request, the School held what they called an SST meeting on March 11, 2019. [Objection 6: At that meeting school staff told me that A.E. needed more time, and that he was not ready for an evaluation. 1:26-27.] I did not understand that I had a right to proceed with my request for an evaluation and, because of what the school staff said, I	5. The testimony is a hearsay statement being offered to prove the truth of the matter asserted in a document that speaks for itself. Fed. R. Evid. 801, 802.	5. Sustained, except to the extent it serves as a foundation for introducing the corresponding exhibit.
	6. The testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an	6. Overruled

Declaration/Testimony of Tania Lopez (T.L)	Objection	Ruling
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 agreed to allow the school to wait. But I still want my son to be assessed, and [Objection 7: <b>I am still worried about my son's education. 2:2.</b> ]	exception to hearsay. Fed. R. Evid. 801, 802.	
10.I have noticed that A.E. has trouble paying attention at home. He is also currently seeing a therapist for depression and for some trauma.	7. The District objects to this testimony because it is not a fact of consequence in determining the action and is irrelevant. Fed. R. Evid. 401.	7. Sustained
11.[Objection 8: <b>I am involved in this federal case because I care deeply about children's education. 2:5-6.</b> ]	8. The District objects to this testimony because that declarant "cares deeply about children's education" is not a fact of consequence in this action and is irrelevant. Fed. R. Evid. 401	8. Sustained
12.I understand that the [Objection 9: <b>Plaintiffs in this case propose that A.E. be a representative of other children who are affected by the District's policies regarding identifying and evaluating children who may have disabilities that impact their education. 2: 7-9.</b> ]	9. The District objects to this testimony because it lacks foundation, as the declarant has failed to introduce evidence sufficient to support a finding that the declarant has personal knowledge about what "Plaintiffs in this case propose" or about "other children" and how they are allegedly "affected by the District's policies." Fed. R. Evid. 602, 701; <i>Daubert</i> , 509 U.S. at 591.	9. Sustained
13.1 understand that our obligation as class representatives is to do what is in the best interests of the class, and I am willing and able to do that.		
14.[Objection 10: <b>Attached hereto as Exhibit A is a true and correct copy of the progress report I received. 2:12-13, 5.</b> ]		
15.[Objection 11: <b>Attached hereto as Exhibit B is a true and correct copy of a photograph of the written</b>		

1 2 <b>Declaration/Testimony of Tania Lopez (T.L)</b>	3 4 <b>Objection</b>	5 6 <b>Ruling</b>
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 <b>request I made for an assessment. 2: 14-15, 7.]</b>  16.Attached hereto as Exhibit C is a true and correct copy of the SST notes from the meeting I had with the school.  I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.	10.The District objects to this attachment because it has not been properly authenticated and declarant has failed to “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R. Evid. 901.	10. Overruled
	11.The District objects to this attachment because it has not been properly authenticated declarant has failed to “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R. Evid. 901.	11. Overruled

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**B. Declaration/Testimony of Margarita Lopez (M.L) Regarding Her  
Daughter D.C.**

21 22 <b>Declaration/Testimony of Margarita Lopez (M.L)</b>	23 24 <b>Objection</b>	25 26 <b>Ruling</b>
27 28 I, M.L., declare as follows: I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.  1. I am the mother of D.C., who is thirteen years old. She is currently in the eighth grade.	29 30 1. The testimony is a hearsay statement being offered to prove the truth of the matter asserted in a document that speaks for itself. Fed. R. Evid. 801, 802.	31 32 1. Sustained
	33 34 2. The District objects to	35 36 2. Sustained

Declaration/Testimony of Margarita Lopez (M.L)	Objection	Ruling
<p>2. I live with D.C. and the rest of my family in Oxnard, California, within the boundaries of the Oxnard School District.</p> <p>3. My daughter used to attend Fremont Academy in the Oxnard School District for sixth and seventh grades. Early in eighth grade she moved to Driffil Elementary School.</p> <p>4. I have been worried that D.C. is having problems in school and is having problems learning.</p>	<p>5. On November 29, 2018 I faxed to Fremont Academy a letter [Objection 1: to ask that my daughter be assessed for special education. 1:14-15.] To my knowledge, I did not receive any response from the school, and I have not been contacted by the school about this.</p>	<p>this testimony because that declarant “cares deeply about children’s education” is not a fact of consequence in this action and is irrelevant. Fed. R. Evid. 401</p>
<p>6. [Objection 2: I am involved in this federal case because I care deeply about children’s education. 1:18-19.]</p>	<p>7. I understand that [Objection 3: the Plaintiffs in this case propose that D.C. be a representative of other children who are affected by the District’s policies regarding identifying and evaluating children who may have disabilities that impact</p>	<p>3. The District objects to this testimony because it lacks foundation, as the declarant has failed to introduce evidence sufficient to support a finding that the declarant has personal knowledge about what “Plaintiffs in this case propose” or about “other children” and how they are allegedly “affected by the District’s policies.” Fed. R. Evid. 602, 701; <i>Daubert</i>, 509 U.S. at 591.</p>
	<p>4. The District objects to this attachment because it has not been properly authenticated and declarant has failed to “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R.</p>	<p>4. Overruled</p>

Declaration/Testimony of Margarita Lopez (M.L)	Objection	Ruling
<p><b>their education. 1: 21-22.]</b></p> <p>8. I understand that our obligation as class representatives is to do what is in the best interests of the class, and I am willing and able to do that.</p> <p>9. <b>[Objection 4: Attached hereto as Exhibit A is a true and correct copy of assessment request that I faxed into the school. 2:1-2, 6-7.]</b></p> <p>I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.</p>	<p>Evid. 901. The District also objects to this attachment because this it lacks foundation. Fed. R. Evid. 602,</p>	

**C. Declaration/Testimony of Esther Espinoza (E.E) Regarding Her Sons M.L. and O.L.**

Declaration/Testimony of Esther Espinoza (E.E)	Objection	Ruling
<p><b>[Objection 1. All testimony by E.E. regarding her son O.L. 1:1-3:13.]</b></p> <p>I, E.E., declare as follows: I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</p>	<p>1. The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>1. Overruled</p>
<p>1. <b>[Objection 2: I am the mother of O.L., who is ten years old. O.L. is in the fifth grade at Cesar Chavez School in Oxnard, CA. 1:5-6]</b></p> <p>2. I am the mother of M.L., who is twelve years old. M.L. is in the seventh grade at Cesar Chavez School in Oxnard, CA.</p>	<p>2. The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>2. Overruled</p>
	<p>3. The Declaration of E.E. regarding her son</p>	<p>3. Overruled</p>

Declaration/Testimony of Esther Espinoza (E.E)	Objection	Ruling
<p>He has been a student in Oxnard since the beginning of the third grade.</p> <p>3. I live with my family, including O.L. and M.L., in Oxnard, California, within the boundaries of the Oxnard School District.</p>	<p>O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	
<p>4. M.L. moved to Oxnard from Mexico around 2015.</p> <p><b>[Objection 3: O.L. moved to Oxnard from Mexico in 2017. 1:12-13]</b></p> <p>5. <b>[Objection 4: I have observed that both O.L. and M.L. struggle to read and write. 1:14]</b></p>	<p>4. The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>4. Overruled</p>
<p>6. <b>[Objection 5: On September 27, 2018, I attended Student Success Team ("SST") meetings at Cesar Chavez school to discuss O.L. and M.L. 1:15-16]</b></p>	<p>5. The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>5. Overruled</p>
<p>7. <b>[Objection 6: I have been very concerned that O.L. and M.L. cannot read. In addition to my own observations, when I ask them about reading, they each tell me "I can't read." 1:17-18.]</b></p>	<p>6. The statement is being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay.</p>	<p>6. Sustained</p>
<p>8. <b>[Objection 7: On February 15, 2019, I took O.L. to a well child visit at Clinicas de Real ("Clinicas") where he was seen by a Physician Assistant, Mr. Justin Fawell. I told Mr. Fawell that I was worried that O.L. cannot read. I was there during</b></p>	<p>Fed. R. Evid. 801, 802. The District also objects because The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative.</p>	

1 Declaration/Testimony of Esther 2 Espinoza (E.E)	Objection	Ruling
3 O.L.'s visit and saw that O.L. 4 was unable to identify or read 5 the letters "CAT" in front of 6 Mr. Fawell. 1:19-22]	7 Fed. R. Evid. 401, 8 402.	
9. [Objection 8: At the end of 10 this visit, Mr. Fawell gave me 11 a note on something that 12 looked like a prescription 13 form, my understanding was 14 that it was asking that O.L. 15 be assessed for disabilities. 16 He told me to take it to the 17 school--which I did the same 18 day he gave it to me. 1:23-26.]	19 7. The Declaration of 20 E.E. regarding her son 21 O.L. is irrelevant 22 because Plaintiffs do 23 not propose that he is 24 a class representative. 25 Fed. R. Evid. 401, 26 402. The testimony is 27 a hearsay statement 28 being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. 29 Fed. R. Evid. 801, 30 802.	31 7. Sustained
32 10. [Objection 9: The person in 33 the front office at Cesar 34 Chavez who took the paper 35 told me she would get back to 36 me regarding the written 37 request for an assessment for 38 O.L. that I gave her from Mr. 39 Fawell. 2:1-3.]	40 8. The testimony is a 41 hearsay statement 42 being offered to prove 43 the truth of the matter 44 asserted by someone 45 other than the 46 declarant and does not 47 fall within an 48 exception to hearsay. 49 Fed. R. Evid. 801, 50 802.	51 8. Sustained
52 11. [Objection 10: O.L. and I 53 went to Clinicas for a follow- 54 up appointment on March 18, 55 2019. 2:4.] [Objection 11: I 56 told Mr. Fawell that I had not 57 heard from the principal. 58 1:5.]	59 8. The testimony is a 60 hearsay statement 61 being offered to prove 62 the truth of the matter 63 asserted by someone 64 other than the 65 declarant and does not 66 fall within an 67 exception to hearsay. 68 Fed. R. Evid. 801, 69 802. The District also 70 objects to this 71 testimony because the 72 it is being introduced 73 to prove the contents 74 of the "note" without 75 introducing the 76 original document 77 into evidence. Fed. R.	
78 12. [Objection 12: I did not hear 79 back from the school until 80 about March 27, 2019, 2:6.] 81 when the school finally 82 provided me with an 83 assessment plan.		
84 13. [Objection 13: O.L. has been 85 in school in Oxnard for more 86 than a year. I do not 87 understand why the school		

Declaration/Testimony of Esther Espinoza (E.E)	Objection	Ruling
<p>1 waited so long, and until I 2 had Mr. Fawell intervene 3 before they assessed my son. 4 2:8-10.]</p> <p>5 14. My son M.L. has still not been 6 evaluated for special education. 7 I continue to have concerns 8 about his education as well.</p> <p>9 15. [Objection 14: I am involved 10 in this federal case because I care deeply about children's education. 2:13-14.]</p>	<p>Evid. 801, 1002. Furthermore, the District also objects because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	
<p>16. [Objection 15: I understand 17 that the Plaintiffs in this case 18 propose that M.L. be a 19 representative of other 20 children who are affected by 21 the District's policies 22 regarding identifying and 23 evaluating children who may 24 have disabilities that impact 25 their education. 2: 16-18.]</p> <p>26 17. I understand that our obligation 27 as class representatives is to do 28 what is in the best interests of the class, and I am willing and able to do that.</p>	<p>9. The testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. Fed. R. Evid. 801, 802. The District also objects because The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>9. Overruled</p>
<p>29 18. [Objection 16: Attached as Exhibit A is a true and correct copy of the invitation to the SST meeting for O.L. that the school sent. 2:22-24,</p> <p>30 7.] Attached as Exhibit B is a 31 true and correct copy of the 32 invitation to the SST meeting 33 for M.L. that the school sent.</p> <p>34 19. [Objection 17: On February 26, 2019, O.L. took the Star diagnostic test for Math. A</p>	<p>35 10. The Declaration of 36 E.E. regarding her son 37 O.L. is irrelevant 38 because Plaintiffs do 39 not propose that he is 40 a class representative. Fed. R. Evid. 401,</p>	<p>41 10. Overruled</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Esther Espinoza (E.E)	Objection	Ruling
	true and correct copy of his Student Diagnostic Report based on the Star testing in Math is attached hereto as Exhibit C. The school sent this to me. 2:25-27, 10.]	402.	
	20. [Objection 18: On February 27, 2019, O.L. took the Star diagnostic test for Reading. A true and correct copy of his Student Diagnostic Report based on the Star testing in Reading is attached hereto as Exhibit D. The school sent this to me. 3: 1-3, 12]	11. The District objects because The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402. In addition, the testimony about an unsworn out of court statement being offered to prove the truth of the matter asserted is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 801, 802.	11. Overruled
	21. [Objection 19: A true and correct copy of O.L.'s progress report from the fourth grade at Cesar Chavez is attached hereto as Exhibit C. The school sent this to me. 1:4-5,14.]	12. The District objects because The Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.	12. Overruled
	22. [Objection 20: A true and correct copy of O.L.'s progress report from the first semester of fifth grade at Cesar Chavez is attached hereto as Exhibit D. The school sent this to me. 1:6- 7,16.]	13. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation. Fed. R. Evid. 602.	13. Sustained
	23. A true and correct copy of M.L.'s progress report from sixth grade at Cesar Chavez is attached hereto as Exhibit E. The school sent this to me. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.		

1 2 <b>Declaration/Testimony of Esther Espinoza (E.E)</b>	<b>Objection</b>	<b>Ruling</b>
	Furthermore, the District objects because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.	
	14. The District objects to this testimony because that declarant “cares deeply about children’s education” is not a fact of consequence in this action and is irrelevant. Fed. R. Evid. 401	14. Sustained
	15. The District objects to this testimony because it lacks foundation, as the declarant has failed to introduce evidence sufficient to support a finding that the declarant has personal knowledge about what “Plaintiffs in this case propose” or about “other children” and how they are allegedly “affected by the District’s policies.” Fed. R. Evid. 602, 701; <i>Daubert</i> , 509	15. Sustained

1 2 <b>Declaration/Testimony of Esther Espinoza (E.E)</b>	<b>Objection</b>	<b>Ruling</b>
	U.S. at 591. 16. The District objects, because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402	16. Overruled
	17. The District objects, because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402	17. Overruled
	18. The District objects, because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402	18. Overruled
	19. The District objects, because the Declaration of E.E. regarding her son O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402	19. Overruled
	20. The District objects, because the	20. Overruled

1 <b>Declaration/Testimony of Esther 2 Espinoza (E.E)</b>	3 <b>Objection</b>	4 <b>Ruling</b>
5	6 Declaration of E.E. 7 regarding her son O.L. 8 is irrelevant because 9 Plaintiffs do not propose that he is a class representative. 10 Fed. R. Evid. 401, 402	11

12 **D. Declaration/Testimony of Dr. Carlos Flores Regarding O.L., M.L., D.C.,  
13 and A.E.**

10 <b>Declaration/Testimony of Carlos 11 A. Flores, Psy. D.</b>	12 <b>Objection</b>	13 <b>Ruling</b>	
14 [Objection 1. Entire Declaration of Carlos A. Flores. 1:1-3:3.] [Objection 2. All testimony by of Carlos A. Flores regarding O.L. 1:1-3:3.] I, Carlos Flores, declare as follows: I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts. 1. I am a clinical neuropsychologist in private practice in Pasadena, CA. My California state psychology license number is PSY18025. I received my Doctor of Psychology from the Illinois School of Professional Psychology in 1994. I was a post-doctoral intern at the Neurological Institute of Columbia University in New York during 1993-1994. I was a post-doctoral fellow in the	15 16 17 18 19 20 21 22 23 24 25 26 27 28	1. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993). 2. The Declaration of Carlos A. Flores regarding O.L. is	1. Overruled 2. Overruled

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>Division of Neuropsychology at the University of Miami School of Medicine in Miami, FL in 1994-1995. Since 2002, I have been conducting Independent Educational</p>	<p>irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	
<p>Evaluations for local school districts and universities in Southern California, including Los Angeles Unified School District. My CV is attached hereto as Exhibit A.</p>	<p>3. The Declaration of Carlos A. Flores regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>3. Overruled</p>
<p>2. On March 23, 2019, at the request of Learning Rights Law Center, [Objection 3: I conducted preliminary, academic screening tests on O.L., M.L. and D.C. True and correct copies of the summary test results for each child are attached hereto as Exhibits B, 1:14-17, 13, 14] C and D, respectively.</p>	<p>4. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993).</p>	<p>4. Overruled</p>
<p>3. I conducted the testing in my office in Pasadena. The point of this testing was not to complete a psychoeducational assessment / special education evaluation for the children, but rather to look at their academics to see whether they have flags that would indicate the need for further testing.</p>		
<p>4. I administered the Woodcock-Johnson IV Tests of Achievement Form A and Extended (Norms based on age 12-5) to M.L. This test measures academic</p>	<p>5. The District objects to</p>	<p>5. Overruled</p>

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>achievement in reading, spelling, and mathematics. I administered the test in English. I attempted to administer the test in Spanish, but M.L. was not able to respond in Spanish. Based on the test results, I concluded that</p> <p><b>[Objection 4: M.L. has significant disabilities that will affect his learning, and that academically he is functioning at an exceptionally low level. 1:26-28.]</b></p> <p><b>[Objection 5: I suspect he has learning disabilities including a serious auditory processing disorder and dyslexia, but further testing is needed to confirm. 1:28, 2:1.]</b></p> <p>I recommend a complete psychoeducational assessment, i.e. an initial special education evaluation, to determine the nature of his disability and his special education needs.</p>	<p>the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993).</p>	
<p>5. <b>[Objection 6: M. L.'s academic delays (Auditory Processing Disorder, Dyslexia) were also noted in his brother's (O.L) academic profile. 2: 4-5.]</b> This finding is consistent with research indicating that Dyslexia (a language based learning disability) is genetic in nature.</p> <p><b>[Objection 7: In sum, test findings (see attached screening report) indicated</b></p>	<p>6. The Declaration of Carlos A. Flores regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative and this testimony is irrelevant. Fed. R. Evid. 401, 402.</p> <p>7. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or</p>	<p>6. Sustained on other grounds (hearsay)</p> <p>7. Overruled</p>

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>that M.L. and his brother O.L. experience significant auditory processing deficits, which impede access to their academic curriculum. 1:6-9.] M.L.'s poor reading skills (and therefore his extremely low academic test scores evidenced on the current evaluation) are so obvious; [Objection 8: they should have been flagged by his school staff so that the proper assessment process would have been initiated. 1:9-12.] Additionally, M.L.'s clinical presentation was remarkable for behaviors (i.e., marked distractibility) observed in children diagnosed with an attentional disorder. However, additional psychometric testing is required to corroborate this diagnosis.</p> <p>6. [Objection 9: I administered the Batteria III Normative Pruebas de Aprovechamiento Woodcock Muñoz III to O.L. This is a Spanish-language version of the Woodcock-Johnson Achievement Test. After speaking with O.L. for a time, I determined that testing in Spanish would yield the most accurate results, because O.L.'s English skills are very limited. Based on O.L.'s test results, I concluded that he has significant disabilities; and</p>	<p>upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993). The Declaration of Carlos A. Flores regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative and this testimony is irrelevant. Fed. R. Evid. 401, 402.</p>	
	<p>8. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and</p>	<p>8. Sustained</p>

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>apart from relative strengths in math, O.L. is functionally illiterate. The undersigned opines that, given O.L.'s severe reading impairments (and therefore his extremely low test scores yielded during the undersigned's evaluation), educators working with him should have identified his current academic difficulties; and therefore provide the appropriate interventions to address/prevent further academic deterioration. However, I have not been informed of any educational intervention(s) geared toward evaluating O.L.'s academic functioning or any other difficulties (e.g. a language disorder). In sum, O.L. and his brother M.L. demonstrated academic deficits observed in children with a severe auditory processing disorder and possibly a language based learning disability. 2:16-28, 3:1-2.] M.L.'s clinical presentation was also remarkable for attentional problems, a finding that is suggestive of an attention deficit disorder.</p> <p>7. Please note that, these are provisional diagnoses – based on screening evaluations. As</p>	<p>methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993).</p> <p>9. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993).</p> <p>The Declaration of Carlos A. Flores regarding O.L. is irrelevant because Plaintiffs do not propose that he is a</p>	<p>9. Sustained in part. Strike &lt;“The undersigned opines that . . . (e.g. a language disorder).”&gt;</p>

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>such, a definitive diagnosis cannot be recommended at this time. Therefore, M.L. [Objection 10: and O.L. will need a comprehensive psychoeducational evaluation to thoroughly assess their academic skills as well as other functions (i.e., intellectual abilities, attention and concentration, memory capacity, language skills). This strategy is likely to prove helpful in the determination/corroboration of appropriate diagnoses, which can then be instructive in the implementation of effective clinical and educational interventions to address and/or prevent any further deterioration in M.L.'s and O.L.'s academic and adaptive functioning. 3: 6-12.]</p>	<p>class representative and this testimony is irrelevant. Fed. R. Evid. 401, 402.</p>	
<p>8. I administered the Woodcock-Johnson IV Tests of Achievement Form A and Extended (Norms based on age 13-8) to D.C. I administered the test in English. Based on the test results, I concluded that D.C has some flags that indicate that further investigation into possible disabilities is needed. In particular, her low score in the area of "Word Attack" is of concern, and it likely indicates</p>	<p>10. The Declaration of Carlos A. Flores regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative and this testimony is irrelevant. Fed. R. Evid. 401, 402.</p> <p>11. The District objects to the entire declaration as improper expert testimony on the bases that the testimony is not based on sufficient facts or data and/or upon reliable principles and methods and/or the declarant has not reliably applied the principles and methods to the present facts and/or the declarant is otherwise unqualified to proffer such testimony. Fed. R. Evid. 602, 702, 703; see <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i>, 509 U.S. 579 (1993).</p>	<p>10. Sustained in part. Strike &lt;"which can then be instructive . . . adaptive functioning."&gt;</p> <p>11. Overruled</p>

Declaration/Testimony of Carlos A. Flores, Psy. D.	Objection	Ruling
<p>marked weaknesses in word attack skills (phonological decoding), a factor that unquestionably impacted D.C.'s reading accuracy and comprehension. On paragraph reading, D.C.'s phonological decoding of written language (letter-sound correspondence) was compromised (fourth grade equivalent). She demonstrated numerous reading errors including, function word errors (word substitutions/omission) and a tendency to rush and not take the time to fully read the words (may have employed sight reading strategies). These difficulties are suggestive of a cognitive/auditory processing deficit. <b>[Objection 11: This condition is a language-based learning disability that undoubtedly interferes with D.C.'s ability to sound out words accurately. 2:25, 3:1.]</b> I recommend a complete psychoeducational assessment, i.e. an initial special education evaluation, to determine the nature of D.C.'s disability and her special education needs.</p> <p>I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.</p>		

27 **E. Declaration/Testimony of Justin Fawell Regarding O.L.**

28

Declaration/Testimony of Justin Robert Fawell, PA- C	Objection	Ruling
<p><b>[Objection 1. Entire Declaration of Justin Robert Fawell 1:1-2:5.]</b></p>	<p>1. I make this declaration of my own personal knowledge of the facts stated herein. If called as a witness in this proceeding, I could and would competently testify thereto.</p>	<p>1. Overruled</p>
<p>2. I am a licensed Physician's Assistant, authorized to practice in the State of California. I graduated from George Washington University with a master's in health science degree in the physician assistant program. I also have a Master's in Public Health from George Washington University. I have worked at Clinicas for approximately ten years.</p>	<p>2. The Declaration of Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402. The District also object to this attachment because it has not been properly authenticated and declarant has failed to "produce evidence sufficient to support a finding that the item is what the proponent claims it is." Fed. R. Evid. 901.</p>	<p>2. Overruled</p>
<p>3. I am employed as Physician Assistant by Clinicas Del Camino Real ("Clinicas"), in Ventura County, California. In my capacity as a Physician's Assistant, I am readily familiar with the record keeping practices of Clinicas, and how patient files and related documents are handled and maintained in the regular course of business. <b>[Objection 2: Attached hereto as Exhibit A is a true and correct copy of relevant excerpts of the Clinicas' patient file for O.L. 1:14-15, 5-10.]</b></p>	<p>3. The Declaration of Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.</p>	<p>3. Overruled</p>
<p>4. <b>[Objection 3: On February 15, 2019, I conducted a well</b></p>	<p>4. The Declaration of</p>	<p>4. Overruled</p>

Declaration/Testimony of Justin Robert Fawell, PA- C	Objection	Ruling
<p>child examination on O.L. I conducted a follow-up examination on March 18, 2019. I made notes for O.L.'s patient file during both visits, which I dictated and finalized immediately after each visit. Those notes are contained in the attached patient file (Ex. A (2/15/19 visit); Ex. A. (3/18/19 visit)). O.L. was accompanied by his mother, E.E., at both visits. 1:16-20.]</p> <p>5. [Objection 4: At the visit on February 15, 2019, I decided to do screen O.L. for possible disabilities because his mother expressed concern that he struggles in school, and that he was in the fifth grade but could not read any basic words. I presented O.L. with the word 'cat' and he could not read it, and he also could not add 4+2. 1:21-24.]</p>	<p>Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402. The District also objects because the testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone other than the declarant and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p>	
<p>6. [Objection 5: Based on my experience treating children as a Physician's Assistant, I was very concerned about O.L.'s inability to read or recognize basic letters. I thought that he showed signs of a profound learning disorder. I decided to write a prescription for the school requesting an evaluation to identify his specific learning disorder. 1:25-28.]</p> <p>7. [Objection 6: O.L. and his</p>	<p>5. The Declaration of Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402. The District also objects to this testimony as speculative and because the declarant has not introduced evidence sufficient to support a finding that the declarant has personal knowledge or expertise to offer an opinion concerning</p>	<p>5. Sustained in part. Strike &lt;“Based on my experience . . . profound learning disorder.”&gt;</p>

1 2 <b>Declaration/Testimony of Justin Robert Fawell, PA- C</b>	<b>Objection</b>	<b>Ruling</b>
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 <p><b>mother came to Clinicas for a follow-up visit on March 18, 2019. 2:7.]</b></p> <p><b>8. [Objection 7: After that visit, also on March 18, 2019 I contacted Learning Rights Law Center regarding providing assistance for O.L. and his family, based on my understanding from talking to O.L.'s mother that O.L.'s school had still not addressed his possible disabilities. I thought that O.L.'s mother should keep trying to get O.L. services. 2:2-5.]</b></p>	signs of a learning disorder. Fed. R. Evid. 602, 701; <i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579, 591 (1993).	
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.	6. The Declaration of Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402.  7. The Declaration of Justin Robert Fawell regarding O.L. is irrelevant because Plaintiffs do not propose that he is a class representative. Fed. R. Evid. 401, 402. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation. Fed. R. Evid. 602. The District also objects because the testimony is a hearsay statement being offered to prove the truth of the matter asserted by someone	6. Overruled  7. Sustained in part. Strike <“based on my . . . get O.L. services.”>

1 <b>Declaration/Testimony of Justin</b> 2 <b>Robert Fawell, PA- C</b>	3 <b>Objection</b>	4 <b>Ruling</b>
5	6      other than the 7      declarant and does not 8      fall within an 9      exception to hearsay. 10     Fed. R. Evid. 802.	11

12     **F. Declaration/Testimony of Claudia Mercado**

1 <b>Declaration/Testimony of</b> 2 <b>Claudia Mercado</b>	3 <b>Objection</b>	4 <b>Ruling</b>
5      I, Claudia Mercado, declare as 6      follows: 7      1. I make this declaration based 8      on my personal knowledge and, 9      if called to testify, could and 10     would testify as follows. 11 <b>Background on Primero Los</b> 12 <b>Niños</b> 13     2. I am the founder of Primero 14     Los Niños (in English 15     translated to “Children First”), 16     a membership organization 17     made up of parents of children 18     with disabilities and/or 19     difficulties learning English 20     who attend school in the 21     Oxnard School District. 22 <b>[Objection 1: I, along with</b> 23 <b>several other parents,</b> 24 <b>realized the need for such a</b> 25 <b>group in the Summer of 2014,</b> 26 <b>after learning that we had</b> 27 <b>shared experiences seeking</b> 28 <b>services for our children in</b> the <b>District. 1:9-11.]</b> We began to have monthly meetings during the 2014-2015 school year. The monthly meetings have attracted an average of 10-	6      1. The District objects to 7      this testimony as 8      speculative and 9      because the declarant 10     has not introduced 11     evidence sufficient to 12     support a finding that 13     the declarant has 14     personal knowledge. 15     Fed. R. Evid. 602. To 16     the extent that 17     declarant was not 18     present during such 19     discussions and the 20     information was 21     obtained from 22     someone other than 23     declarant, the 24     statement is hearsay 25     and does not fall 26     within an exception to 27     hearsay. Fed. R. Evid. 28     802.	6      1. Overruled

Declaration/Testimony of Claudia Mercado	Objection	Ruling
<p>12 members, although those members have changed over time. In between the monthly meetings, we have also held informal meetings with individual families who have specific questions about their children's educational rights. Thus, the overall number of families who we are typically involved with is 15-20 at any given time.</p> <p>3. Primero Los Niños members usually meet on a monthly basis during the school year. Although, from November 2017 through April 2018, I did not call formal meetings because I was dealing with a medical condition. During that time period, we continued to meet informally, and again began holding formal meetings in May of 2018.</p>	<p>support a finding that the declarant has personal knowledge. Fed. R. Evid. 602. To the extent that declarant was not present during such discussions and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p>	
<p>4. At Primero Los Niños meetings, [Objection 2. we typically discuss common concerns affecting our children's education and options for addressing those concerns. 1:23-25.] [Objection 3. Primero Los Niños provides parents with educational information about their rights as well as the procedures for filing complaints on a variety of issues, including special education, language access]</p>	<p>3. The District objects to this testimony as speculative and because the declarant has not introduced evidence sufficient to support a finding that the declarant has personal knowledge. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid.</p>	<p>3. Overruled</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
<p><b>and school conditions' issues.</b> 1:25-27.]</p> <p>5. As the founder of Primero Los Niños, I have worked with other members of the group to advocate for and support parents facing a variety of issues in the Oxnard School District, many of which are unrelated to the District's special education system.</p> <p>6. For example, Primero Los Niños has taken a variety of advocacy approaches to improve the overall quality of the English learner language immersion programs within the Oxnard School District, and to advocate for better inclusion of students of Mixtec origin in the District's language immersion programs. As members of Primero Los Niños, we have also fought for more education funding, and better use of existing funding, for English learning programs within the District. We have also advocated for improved quality of education in the general education population, for all kids, including through improved physical conditions in the District.</p> <p>7. In some cases, <b>[Objection 4. we have filled out complaint forms on behalf of parents.</b> 2:14-15.] In other cases, <b>[Objection 5. we have</b></p>	<p>802.</p> <p>4. The District objects to this testimony as speculative and because the declarant has not introduced evidence sufficient to support a finding that the declarant has personal knowledge. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p> <p>5. The District objects to this testimony as speculative and because the declarant has not introduced evidence sufficient to support a finding that the declarant has personal knowledge. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was</p>	<p>4. Overruled</p> <p>5. Overruled</p>	

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
provided them with information about their rights and resources to assist them. 2:15-16.]	obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.		
8. [Objection 6. We also provide information and assistance to parents regarding procedures for requesting their children's educational records from the District. 2:17-18.]	6. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	6. Overruled	
9. In areas where we have seen common issues occur, [Objection 7. we have prepared Public Records Act requests to identify the District's policies and procedures regarding those issues as well as relevant data to assess their impact. 2:19- 21.]	7. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	7. Overruled	

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
	11. Additionally, [Objection 9. in situations where legal advocacy may be needed, we have referred parents to advocacy groups such as the Learning Rights Law Center. 3:1-2.]	has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	
	12. We have also held events where we invite representatives of legal advocacy groups and other non-profits to provide parents with educational information about their rights.	8. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	8. Overruled
	13. Primero Los Niños continues to actively address the needs of its members, and we have met on a monthly basis throughout the 2018-2019 school year. In between those meetings, I and [Objection 10: other members answer questions from parents and members regarding their children's needs with regard to special education, language access, and school conditions, and advocate for those students as best we can. 3:8-11.]	8. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	
	Harm to the Organization 14. [Objection 11. The Oxnard School District's practice of failing to timely identify and evaluate children who may need special education or other disability-based services and accommodations 3:13-16] frustrates Primero Los Niños' mission of ensuring that children in the District have	9. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and	9. Overruled

Declaration/Testimony of Claudia Mercado	Objection	Ruling
<p>appropriate educational services.</p> <p>15. In response to several questions and concerns raised by parents of students with suspected disability-related needs,</p> <p><b>[Objection 12. we have had to educate our members about their rights to have their children assessed for appropriate disability-based services and the procedures for challenging the District's failures to conduct such assessments. 3:18-21.]</b></p>	<p>is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p>	
<p>16. We have spent significant amounts of time and resources fielding questions and complaints and seeking out referrals and options for advocacy regarding <b>[Objection 13. the District's failure to identify and serve the needs of children with disabilities. 3:24-25.]</b></p>	<p>10. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p>	<p>10. Overruled</p>
<p>17. <b>[Objection 14. We have formally requested public records from the District to identify relevant data and other public information needed to assess the effectiveness of the District's policies and practices regarding its special education program, including its policies and practices regarding the identification and assessment of children with disability-related needs.</b></p>	<p>11. The District objects to the testimony because the declarant lacks personal knowledge</p>	<p>11. Sustained</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
<p><b>3:26-28,4:1-2.]</b></p> <p>18. Primero Los Niños has also hosted events where we have invited advocates to assist parents whose children need special educations services and have been unable to secure special education assessments from the District.</p> <p>19. As members of Primero Los Niños, <b>[Objection 15: we work diligently to respond to every question and complaint regarding the District's special education policies, English language learning programs, and funding and school conditions. However, it has taken significant time and effort to respond to the complaints we have received regarding the District's practices for identifying children who may have disabilities, which means that we have spent more time and effort than we should need to on special education, as opposed to spending time and effort on other issues within the District. 4:6-13.]</b></p> <p>20. <b>[Objection 16. We continue to field complaints on these issues and have referred such complaints to advocacy groups, such as the Learning Rights Center for Advocacy. 4:14-16.]</b></p> <p><b>Harm to the Members of</b></p>	<p>and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602.</p> <p>12. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant is referring to the experiences or statements of others, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p> <p>13. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the</p>	<p>12. Sustained in part. Strike &lt;“failures to conduct such assessments”&gt; and replace with &lt;“practices”&gt;</p> <p>13. Sustained</p>	

1 Declaration/Testimony of 2 Claudia Mercado	3 Objection	4 Ruling
<p><b>Primero Los Niños</b></p> <p>21.Based on my interaction with our members, [Objection 17. I believe that since our formation in 2014, at least 20 members of Primero Los Niños have been affected by the Oxnard School District's practice of failing to timely identify and evaluate children who may need special education services or other disability-based services and accommodations. 4:18-22.]</p> <p>[Objection 18. We have provided them information about their rights and referred the majority of them to Learning Rights Law Center and other advocacy groups. 4:22-24.]</p> <p>[Objection 19. We continue to receive complaints and concerns about these issues and will address them as we meet during the 2018-2019 school year. 4:24, 5:1.]</p> <p>[Objection 20. As these issues continue to arise, we will continue to make such referrals. 5:1-3]</p>	<p>statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p> <p>14. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant is referring to the experiences or statements of others, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.</p>	14. Overruled
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.	15. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the	15. Overruled

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
		statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	
		16. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	16. Overruled
		17. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was	17. Sustained

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
		obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	
		18. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	18. Overruled
		19. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant	19. Overruled

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Declaration/Testimony of Claudia Mercado	Objection	Ruling
		has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	
		20. The District objects to the testimony because the declarant lacks personal knowledge and assumes facts not in evidence and thus lacks foundation and is speculative. Fed. R. Evid. 602. To the extent that declarant has not personally taken such action and the information was obtained from someone other than declarant, the statement is hearsay and does not fall within an exception to hearsay. Fed. R. Evid. 802.	20. Overruled

## **G. Declaration/Testimony of Patsy A. Van Dyke**

Declaration/Testimony of Patricia A. Van Dyke	Objection	Ruling
I, Patricia A. Van Dyke, declare as follows:		1. Overruled
<ol style="list-style-type: none"> <li>1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</li> <li>2. I am a member of the State Bar of California and am admitted to practice before this court. I am counsel for Plaintiff and the proposed class in this matter.</li> <li>3. I am the Director of the Environmental Justice in Education Project at Learning Rights Law Center.</li> </ol>	<p>1. The District objects to this attachment because it has not been properly authenticated and declarant has failed to “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R. Evid. 901.</p> <p>2. The District objects to this attachment because it has not been properly authenticated and declarant has failed to “produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Fed. R. Evid. 901.</p>	2. Overruled
<p><b>Exhibits</b></p>		
<ol style="list-style-type: none"> <li>4. [Objection 1: Attached hereto as Exhibit A is a true and correct copy of A.E.’s [redacted] educational records obtained from Rio School District. My office obtained these records via an educational records request. 1:11-13, 4-10.]</li> <li>5. [Objection 2: Attached hereto as Exhibit B is a true and correct copy of D.C.’s [redacted] educational records obtained from Rio School District. My office obtained these records via an educational records request. 1:14-16, 12-15.]</li> </ol>		
I declare under penalty of perjury under the laws of the United States that the foregoing is true and		

1 <b>Declaration/Testimony of</b>	2 <b>Objection</b>	3 <b>Ruling</b>
4      Patricia A. Van Dyke	5	6
7      correct.	8	9

10      IT IS SO ORDERED.

11      Dated: July 30, 2019

12        
13      JOHN A. KRONSTADT  
14      UNITED STATES DISTRICT JUDGE